

Message Text

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ACTION L-03

INFO OCT-01 ARA-10 EUR-12 ISO-00 IO-13 ACDA-12 CIAE-00
INR-07 NSAE-00 NSC-05 EB-08 NRC-05 OES-07 SOE-02
DODE-00 SS-15 SP-02 PM-05 /107 W
-----130943 130437Z /73

P 122120Z JAN 78
FM AMEMBASSY VIENNA
TO SECSTATE WASHDC PRIORITY 4676
INFO AMEMBASSY BELGRADE
AMEMBASSY MEXICO PRIORITY
USDOEHQ WASHDC PRIORITY
USDOEHQ GERMANTOWN PRIORITY

C O N F I D E N T I A L SECTION 01 OF 03 VIENNA 00225

USIAEA

DEPT PASS IO/SCT

E.O. 11652: GDS
TAGS: IAEA, TECH, MNUC, ENRG
SUBJECT: AMENDMENT TO U.S.-IAEA AGREEMENT FOR
COOPERATION

REF: STATE 1168

1. DRAFT TEXT SUBJECT AMENDMENT PER REFTEL HAVING BEEN
PROVIDED TO IAEA SECRETARIAT JANUARY 4, MISOFF WAS IN-
VITED TO JOIN EDWARDS, DIRECTOR LEGAL DIVISION, HA-VINH
PHUONG AND RAINER OF HIS STAFF JANUARY 10 FOR DISCUSSION'

2. FOLLOWING IS PROPOSED SECRETARIAT REVISION OF ARTICLES
I, II AND III OF AMENDMENT TEXT:

QUOTE ARTICLE 1

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QUOTE ARTICLE II OF THE AGREEMENT FOR COOPERATION IS
AMENDED BY ADDING THE FOLLOWING PARAGRAPH:

QUOTE E. MATERIAL, EQUIPMENT OR FACILITIES MADE AVAILA-
BLE TO THE AGENCY PURSUANT TO THIS ARTICLE IN CONNec-
TION WITH AN AGENCY PROJECT AGREEMENT ENTERED INTO AFTER
THE ENTRY INNO FORCE OF THIS AMENDMENT SHALL NOT BE

USED IN ANY AGENCY ACTIVITIES IN A NON-NUCLEAR-WEAPON MEMBER STATE OR GROUP OF MEMBER STATES UNLESS AT THE DATE OF TRANSFER, SUCH MEMBER STATE OR GROUP OF MEMBER STATES ACCEPTS AGENCY SAFEGUARDS WITH RESPECT TO ALL NUCLEAR ACTIVITIES WITHIN ITS TERRITORY, UNDER ITS JURISDICTION OR CARRIED OUT UNDER ITS CONTROL ANYWHERE. FOR THE PURPOSES OF THIS AGREEMENT, THE APPLICATION OF A SAFEGUARDS AGREEMENT PURSUANT TO ARTICLE III (4) OF THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS SHALL BE CONSIDERED TO FULFILL THE CONDITION STATED IN THE FOREGOING SENTENCE.

QUOTE ARTICLE 2

QUOTE ARTICLE V OF THE AGREEMENT FOR COOPERATION IS AMENDED AS FOLLOWS:

QUOTE THE AGENCY GUARANTEES, TO THE FULL EXTENT OF ITS STATUTORY POWERS, THAT:

QUOTE (A) THE SAFEGUARDS SET FORTH IN THE AGENCY STATUTE SHALL BE MAINTAINED AND IMPLEMENTED WITH RESPECT TO MATERIAL, EQUIPMENT OR FACILITIES TRANSFERRED BY THE UNITED STATES OR PERSONS UNDER ITS JURISDICTION FOR USE IN AGENCY ACTIVITIES, IN ACCORDANCE WITH AN AGENCY PROJECT AGREEMENT INCORPORATING: (A) PROVISIONS RELATING CONFIDENTIAL

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THE DURATION OF THE AGREEMENT TO THE PERIOD OF ACTUAL USE OF SUPPLIED MATERIAL, EQUIPMENT OR FACILITIES IN THE RECIPIENT STATE OR STATES; AND (B) PROVISIONS FOR TERMINATING THE AGREEMENT, FORMULATED IN SUCH A WAY THAT THE RIGHTS AND OBLIGATIONS OF THE PARTIES CONTINUE TO APPLY IN CONNECTION WITH SUPPLIED MATERIAL, EQUIPMENT OR FACILITIES AND WITH SPECIAL NUCLEAR MATERIAL USED IN OR PRODUCED THROUGH THE USE OF ANY SUCH MATERIAL, EQUIPMENT OR FACILITIES, INCLUDING SUBSEQUENT GENERATIONS OF SPECIAL NUCLEAR MATERIAL, UNTIL SUCH TIME AS THE AGENCY HAS TERMINATED THE APPLICATION OF SAFEGUARDS THERETO. ANY SUCH AGREEMENT SHALL PROVIDE THAT UPON THE REQUEST OF THE UNITED STATES, THE RECIPIENT STATE OR STATES SHALL INFORM OR PERMIT THE AGENCY TO INFORM THE UNITED STATES OF THE STATUS OF ALL INVENTORIES OF SOURCE OR SPECIAL NUCLEAR MATERIALS SUBJECT TO AGENCY SAFEGUARDS; HOWEVER, IN THE CASE OF AN AGENCY MEMBER OR MEMBERS PARTY TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS, SUCH REPORTS NEED ONLY COVER INVENTORIES REQUIRED TO BE SAFEGUARDED UNDER THIS PARAGRAPH.

QUOTE (B) MATERIAL, EQUIPMENT OR FACILITIES TRANSFERRED

PURSUANT TO THIS AGREEMENT, AND MATERIAL USED IN OR PRODUCED THROUGH THE USE OF ANY SUCH MATERIAL, EQUIPMENT OR FACILITIES, SHALL NOT BE USED FOR NUCLEAR WEAPONS OR ANY NUCLEAR EXPLOSIVE DEVICE, FOR RESESRCH ON OR DEVELOPMENT OF NUCLEAR WEAPONS OR ANY NUCLEAR EXPLOSIVE DEVICE, OR FOR ANY OTHER MILITARY PURPOSE.

QUOTE (C) MATERIAL, EQUIPMENT OR FACILITIES TRANSFERRED PURSUANT TO THIS AGREEMENT AND ANY SPECIAL NUCLEAR MATERIAL USED IN OR PRODUCED THROUGH THE USE OF ANY SUCH

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INFO OCT-01 ARA-10 EUR-12 ISO-00 IO-13 ACDA-12 CIAE-00

INR-07 NSAE-00 NSC-05 EB-08 NRC-05 OES-07 SOE-02

DODE-00 SS-15 SP-02 PM-05 /107 W

-----130994 130437Z /73

P 122120Z JAN 78

FM AMEMBASSY VIENNA

TO SECSTATE WASHDC PRIORITY 4677

INFO AMEMBASSY BELGRADE

AMEMBASSY MEXICO PRIORITY

USDOEHQ WASHDC PRIORITY

USDOEHQ GERMANTOWN PRIORITY

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MATERIAL, EQUIPMENT OR FACILITIES MAY BE RETRANSFERRED ONLY IN ACCORDANCE WITH THIS AGREEMENT AND UPON AGREEMENT BETWEEN THE PARTIES.

QUOTE (D) MATERIAL TRANSFERRED PURSUANT TO THIS AGREEMENT AND MATERIAL USED IN OR PRODUCED THROUGH THE USE OF ANY MATERIAL, EQUIPMENT OR FACILITIES TRANSFERRED PURSUANT TO THIS AGREEMENT MAY BE STORED BY AGENCY MEMBERS TO THE EXTENT CONSISTENT WITH THE AGENCY STATUTE; PROVIDED THAT PLUTONIUM OR URANIUM-233 (OTHER THAN CONTAINED IN IRRADIATED FUEL ELEMENTS) OR URANIUM ENRICHED TO TWENTY PERCENT OR MORE IN THE ISOTOPE 235 SHALL BE STORED ONLY IN FACILITIES AGREED TO IN ADVANCE BY THE PARTIES.

QUOTE (E) MATERIAL TRANSFERRED PURSUANT TO THIS AGREEMENT AND MATERIAL USED IN OR PRODUCED THROUGH THE USE OF ANY MATERIAL, EQUIPMENT OR FACILITIES TRANSFERRED PURSUANT TO THIS AGREEMENT SHALL NOT BE REPROCESSED, UNLESS THE

PARTIES AGREE.

QUOTE (F) URANIUM TRANSFERRED PURSUANT TO THIS AGREEMENT
AND URANIUM USED TOGETHER WITH ANY MATERIAL OR IN ANY
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EQUIPMENT SO TRANSFERRED MAY BE ENRICHED UP TO TWENTY
PERCENT IN THE ISOTOPE 235 AFTER TRANSFER ONLY IF THE
PARTIES AGREE. SUCH URANIUM SHALL NOT BE ENRICHED AFTER
TRANSFER TO TWENTY PERCENT OR MORE IN THE ISOTOPE 235
UNLESS SPECIFICALLY PROVIDED FOR BY A SUBSEQUENT SEPARATE
AGREEMENT.

QUOTE (G) ADEQUATE PHYSICAL PROTECTION SHALL BE MAIN-
TAINED WITH RESPECT TO ANY MATERIAL, EQUIPMENT OR
FACILITIES TRANSFERRED PURSUANT TO THIS AGREEMENT OR USED
IN OR PRODUCED THROUGH THE USE OF ANY MATERIAL, EQUIPMENT
OR FACILITIES SO TRANSFERRED, IN ACCORDANCE WITH THE
LEVELS SET FORTH IN AGENCY DOCUMENT INFCIRC/225/REV.1,
ENTITLED INNER QUOTE THE PHYSICAL PROTECTION OF NUCLEAR
MATERIALS END INNER QUOTE, AS IT MAY BE REVISED FROM
TIME TO TIME. SUCH LEVELS MAY BE MODIFIED BY MUTUAL
CONSENT OF THE PARTIES WITHOUT AMENDMENT TO THIS AGREEMENT.

QUOTE (H) IF, AT ANY TIME FOLLOWING THE ENTRY INTO FORCE
OF THIS AMENDMENT, A NON-NUCLEAR-WEAPON MEMBER STATE IN
WHICH THERE IS AN AGENCY ACTIVITY INVOLVING MATERIAL,
EQUIPMENT OR FACILITIES TRANSFERRED PURSUANT TO THIS
AGREEMENT:

QUOTE (1) DOES NOT COMPLY WITH THE PROVISIONS OF
ARTICLE V,

QUOTE (2) DETONATES A NUCLEAR EXPLOSIVE DEVICE,

QUOTE (3) TERMINATES OR ABROGATES AGENCY SAFEGUARDS, OR

QUOTE (4) MATERIALLY VIOLATES AN AGENCY SAFEGUARDS
AGREEMENT, THE AGENCY SHALL HAVE THE RIGHT, IN ACCORDANCE
WITH THE AGENCY STATUTE, TO
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QUOTE (A) CEASE FURTHER COOPERATION WITH THE MEMBER
STATE UNDER THIS AGREEMENT; AND

QUOTE (B) REQUIRE THE RETURN OF ANY MATERIAL, EQUIPMENT

OR FACILITIES SUBJECT TO THIS AGREEMENT. UNQUOTE

QUOTE ARTICLE 3

QUOTE THIS AMENDMENT SHALL ENTER INTO FORCE ON THE DATE
ON WHICH THE AGENCY RECEIVES FROM THE UNITED STATES
WRITTEN NOTIFICATION THAT IT HAS COMPLIED WITH ALL
REQUIREMENTS FOR SUCH ENTRY INTO FORCE. UNQUOTE

3. SECRETARIAT'S STRONGLY-HELD POSITION IS THAT A) ANNEX
DEALING WITH PHYSICAL PROTECTION UNNECESSARY WITH THEIR
PROPOSED CHANGE IN AMENDMENT OF ARTICLE V (G), B) SUB-
PARA ONE IN AMENDMENT OF ARTICLE V I (EYE) IN U.S. DRAFT
UNNECESSARY, SINCE ACCEPTANCE OF SAFEGUARDS IS PRE-
CONDITION FOR MAKING MATERIAL, ETC., AVAILABLE, C) SECOND
SENTENCE (QUOTE ANY AGREEMENT RE-
LATING QUOTE, ETC.) IN SUB-PARA (A) OF U.S. PROPOSED
AMENDMENT TO ARTICLE V INAPPROPRIATE AND LACKING BASIS
IN IAEA STATUTE, D) SAME APPLIES TO SECOND HALF SUB-PARA
(E) WHICH REFERS TO ALTERING FORM AND CONTENT AND TO
ALL OF SUB-PARA (H) OF PROPOSED AMENDMENT TO ARTICLE V.

4. WITH RESPECT TO ITEMS C) AND D) IN FOREGOING PARA,
SECRETARIAT AGREED THAT IT WOULD BE APPROPRIATE FOR USG

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ACTION IO-14

INFO OCT-01 ARA-10 EUR-12 ISO-00 ACDA-12 CIAE-00
INR-07 L-03 NSAE-00 NSC-05 EB-08 NRC-05 OES-07
SOE-02 DODE-00 SS-15 SP-02 ABF-01 OMB-01 TRSE-00
AF-10 EA-10 NEA-10 PM-04 L-00 (ISO) W
-----120745 241729Z /70

P 122120Z JAN 78

FM AMEMBASSY VIENNA

TO SECSTATE WASHDC PRIORITY 4678

INFO AMEMBASSY BELGRADE

AMEMBASSY MEXICO PRIORITY

USDOEHQ WASHDC PRIORITY

USDOEHQ GERMANTOWN PRIORITY

C O N F I D E N T I A L SECTION 03 OF 03 VIENNA 00225

TO INFORM IAEA DIRECTOR GENERAL OF INTENT OF USG TO

IMPLEMENT COOPERATION PURSUANT TO AGREEMENT IN MANNER
EXPRESSED THOSE TWO SUB-PARAS AND FOR DIRECTOR GENERAL
TO INCLUDE USG LETTER IN HIS MEMO TO BOARD GOVS. DIRECTOR
GENERAL'S EMMO IS DOCUMENT UPON WHICH BOARD TAKES ACTION;
THUS, USG INTENTION IS MADE MATTER OF RECORD AND BOARD
ACTION IS TAKEN WITH KNOWLEDGE THOSE INTENTIONS.

6. PLEASE ADVISE SOONEST, IN LIGHT SECRETARIAT'S
ADVICE THAT BOARD DOCUMENT MUST BE ISSUED ASAP AND
HOPEFULLY BY JANUARY 20. STONE

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Message Attributes

Automatic Decaptioning: X
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Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENTS, AMENDMENTS, NUCLEAR FUELS
Control Number: n/a
Copy: SINGLE
Draft Date: 12 jan 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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Format: TEL
From: VIENNA USIAEA
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ISecure: 1
Legacy Key: link1978/newtext/t19780169/aaaacfwl.tel
Line Count: 288
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 5e35fce3-c288-dd11-92da-001cc4696bcc
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Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3782236
Secure: OPEN
Status: NATIVE
Subject: AMENDMENT TO U.S.-IAEA AGREEMENT FOR COOPERATION
TAGS: TECH, MNUC, ENRG, AU, IAEA
To: STATE IO MULTIPLE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/5e35fce3-c288-dd11-92da-001cc4696bcc
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